

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/12/2022

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: EMA FINANCIAL, LLC, *a Delaware Limited Liability*
: *Company*,
:

: Plaintiff,
:

21-cv-06049 (LJL)

-v-
:

ORDER
:

: APPTech CORP., *a Wyoming Corporation*,
:

: Defendant.
: X

LEWIS J. LIMAN, United States District Judge:

On September 13, 2022, the Court issued an order and opinion granting in part and denying in part the Plaintiff's motion for summary judgment and denying the Defendant's motion to dismiss. Dkt. No. 40. The Court concluded that while Section 3.20 of the Note is valid and enforceable, EMA's specific request for damages of \$1,952,511.41 is invalid under the terms of the Note. *Id.* at 18. The Court also noted a discrepancy with respect to the calculation of damages from the breach of the Warrant. *Id.* at 38. The Court orders supplemental briefing on the following questions regarding damages:

- (1) Whether Plaintiff seeks to double the "Default Sum" or convert the Default Sum into shares under Section 3.20 of the Note. *See id.* at 33.
- (2) Whether the warrant figure should be divided by the Market Price (A) or the Exercise Price (B) (or if the Court has otherwise misinterpreted the terms of the Warrant).

Plaintiff shall file supplemental briefing by October 28, 2022 on its election of damages under Section 3.20 of the Note and its total calculation of damages. In its supplemental briefing, Plaintiff shall explain how it reached the final damages figure, in accordance with the findings of the Court in the September 13, 2022 Opinion and Order, and in similar detail as its letter submitted to the Court on September 8, 2022, Dkt. No. 39. Defendant shall file its response by November 8, 2022. Plaintiff shall file its reply by November 22, 2022. The parties are ordered to meet and confer to attempt to narrow the issues before the Court.

SO ORDERED.

Dated: October 12, 2022
New York, New York



LEWIS J. LIMAN
United States District Judge